

(b) Gifts of cash accepted for Non-Fee Based SBA-Sponsored Activities are subject to § 106.500, internal SBA policies and procedures as well as applicable U.S. Treasury rules and guidelines; and

(c) Written approval must be obtained as outlined in § 106.403.

**§ 106.402 What provisions must be set forth in a Non-Fee Based Record?**

A Non-Fee Based Record must contain the following:

(a) A narrative description of the Non-Fee Based SBA-Sponsored Activity;

(b) A certification by the Responsible Program Official that he or she will abide by the requirements contained in this part, as well as all other applicable statutes, regulations, policies and procedures for Non-Fee Based SBA-Sponsored Activities;

(c) If applicable, a list of Donors supporting the activity; and

(d) With regard to any donations made in support of a Non-Fee Based SBA-Sponsored Activity, the Non-Fee Based Record will reflect the following:

(1) Each Donor may receive appropriate recognition for its Gift; and

(2) Any printed or electronically generated material recognizing a Donor will include a prominent disclaimer stating that the acceptance of the Gift does not constitute or imply an endorsement by SBA of the Donor, or the Donor's products or services.

**§ 106.403 Who has authority to approve and sign a Non-Fee Based Record?**

The appropriate Responsible Program Official, after consultation with the designated legal counsel, has authority to approve and sign each Non-Fee Based Record.

**Subpart E—Gifts**

**§ 106.500 What is SBA's Gift authority?**

This section covers SBA's Gift acceptance authority under sections 4(g), 8(b)(1)(G), 5(b)(9) and 7(k)(2) of the Small Business Act.

**§ 106.501 What minimum requirements are applicable to SBA's solicitation and/or acceptance of Gifts?**

While SBA may subject the solicitation and/or acceptance of Gifts to additional requirements through internal policy and procedure, the following requirements must apply to all Gift solicitations and/or acceptances under the authority of the Small Business Act sections cited in § 106.500:

(a) SBA is required to use the Gift (whether cash or in-kind) in a manner consistent with the original purpose of the Gift;

(b) There must be written documentation of each Gift solicitation and/or acceptance signed by an authorized SBA official;

(c) Any Gift solicited and/or accepted must undergo a determination, prior to solicitation of the Gift or prior to acceptance of the Gift if unsolicited, of whether a conflict of interest exists between the Donor and SBA; and

(d) All cash Gifts donated to SBA under the authority cited in § 106.500 must be deposited in an SBA trust account at the U.S. Department of the Treasury.

**§ 106.502 Who has authority to perform a Gift conflict of interest determination?**

(a) For Gifts solicited and/or accepted under sections 4(g), 8(b)(1)(G), and 7(k)(2) of the Small Business Act, the General Counsel, or designee, must make the final conflict of interest determination. No Gift shall be solicited and/or accepted under these sections of the Small Business Act if such solicitation and/or acceptance would, in the determination of the General Counsel (or designee), create a conflict of interest.

(b) For Gifts of services and facilities solicited and/or accepted under section 5(b)(9), the conflict of interest determination may be made by designated disaster legal counsel.

**§ 106.503 Are there types of Gifts which SBA may not solicit and/or accept?**

Yes. SBA shall not solicit and/or accept Gifts of or for (or use cash Gifts to purchase or engage in) the following:

(a) Alcohol products;

## Small Business Administration

## Pt. 107

- (b) Tobacco products;
- (c) Pornographic or sexually explicit objects or services;
- (d) Gambling (including raffles and lotteries);
- (e) Parties primarily for the benefit of Government employees; and
- (f) Any other product or service prohibited by law or policy.

### PART 107—SMALL BUSINESS INVESTMENT COMPANIES

#### Subpart A—Introduction to Part 107

Sec.

- 107.20 Legal basis and applicability of this part 107.
- 107.30 Amendments to Act and regulations.
- 107.40 How to read this part 107.

#### Subpart B—Definition of Terms Used in Part 107

- 107.50 Definition of terms.

#### Subpart C—Qualifying for an SBIC License

##### ORGANIZING AN SBIC

- 107.100 Organizing a Section 301(c) Licensee.
- 107.115 1940 Act and 1980 Act Companies.
- 107.120 Special rules for a Section 301(d) Licensee owned by another Licensee.
- 107.130 Requirement for qualified management.
- 107.140 SBA approval of initial Management Expenses.
- 107.150 Management-ownership diversity requirement.
- 107.160 Special rules for Licensees formed as limited partnerships.

##### CAPITALIZING AN SBIC

- 107.200 Adequate capital for Licensees.
- 107.210 Minimum capital requirements for Licensees.
- 107.230 Permitted sources of Private Capital for Licensees.
- 107.240 Limitations on including non-cash capital contributions in Private Capital.
- 107.250 Exclusion of stock options issued by Licensee from Management Expenses.

##### APPLYING FOR AN SBIC LICENSE

- 107.300 License application form and fee.

#### Subpart D—Changes in Ownership, Control, or Structure of Licensee; Transfer of License

##### CHANGES IN CONTROL OR OWNERSHIP OF LICENSEE

- 107.400 Changes in ownership of 10 percent or more of Licensee but no change of Control.
- 107.410 Changes in Control of Licensee (through change in ownership or otherwise).
- 107.420 Prohibition on exercise of ownership or Control rights in Licensee before SBA approval.
- 107.430 Notification to SBA of transactions that may change ownership or Control.
- 107.440 Standards governing prior SBA approval for a proposed transfer of Control.
- 107.450 Notification to SBA of pledge of Licensee's shares.

##### RESTRICTIONS ON COMMON CONTROL OR OWNERSHIP OF TWO OR MORE LICENSEES

- 107.460 Restrictions on Common Control or ownership of two (or more) Licensees.

##### CHANGE IN STRUCTURE OF LICENSEE

- 107.470 SBA approval of merger, consolidation, or reorganization of Licensee.

##### TRANSFER OF LICENSE

- 107.475 Transfer of license.

#### Subpart E—Managing the Operations of a Licensee

##### GENERAL REQUIREMENTS

- 107.500 Lawful operations under the Act.
- 107.501 Identification as a Licensee.
- 107.502 Representations to the public.
- 107.503 Licensee's adoption of an approved Valuation Policy.
- 107.504 Equipment and office requirements.
- 107.505 Facsimile requirement.
- 107.506 Safeguarding Licensee's assets/Internal controls.
- 107.507 Violations based on false filings and nonperformance of agreements with SBA.
- 107.509 Employment of SBA officials.

##### MANAGEMENT AND COMPENSATION

- 107.510 SBA approval of Licensee's Investment Adviser/Manager.
- 107.520 Management Expenses of a Licensee.

##### CASH MANAGEMENT BY A LICENSEE

- 107.530 Restrictions on investments of idle funds by leveraged Licensees.